IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1792 of 2002

For Approval and Signature:

HONOURABLE MS. JUSTICE R.M.DOSHIT
HONOURABLE MR.JUSTICE C.K.BUCH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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UNITED INDIA INSURANCE CO. LTD - Appellant(s)
Versus
MANISHA W/O SURESHBHAI GANPAT-BHAI DHANDGAVADE & 6 - Defendant(s)

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Appearance :
MR PV NANAVATI for Appellant
MR BHARAT JANI for Respondents : 1,4 - 5.
NOTICE SERVED for Respondents : 2 - 7.

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

and

HONOURABLE MR.JUSTICE C.K.BUCH

Date : 05/12/2007

ORAL JUDGMENT (Per : HONOURABLE MS. JUSTICE R.M.DOSHIT)

This Appeal has been preferred by the United India Insurance Company Ltd, the insurer of the offending vehicle - mini luxury bus bearing registration no. GJ 1 X 9818 under Section 173 of the Motor Vehicles Act, 1988 against the judgment and award dated 22nd April, 2002 passed by the Motor Accidents Claims Tribunal, Ahmedabad [hereinafter referred to as “the Tribunal”] in Motor Accident Claim Petition No. 134 of 2000.

Mr. Nanavati has submitted that the Appeal is preferred on the issue of contributory negligence alone. He has submitted that on account of fatal accident between the scooter and the offending luxury bus, the scooter rider lost his life.

Upon perusal of the panchnama of the scene of the accident [exh.31] and the evidence of the eye witness one Sarfaraz Husenkhan Pathan [exh.35], it appears that the accident in question occurred on 9th February, 2000 after 8.00 O'clock in the evening on the airport road at Ahmedabad. At the time of the

accident, the deceased was riding the scooter. Eye witness Sarfaraz Husenkhan Pathan was carrying passengers from the airport and was following the scooter at some distance. The offending luxury bus came headon on the wrong side of the road and hit the scooter. In the ensuing injuries suffered by the scooter driver, he died on the spot.

Considering the aforesaid evidence on record, the Tribunal has attributed negligence to the driver of the offending luxury bus. We are of the opinion that the Tribunal has correctly appreciated the evidence before it. We see no substance in the Appeal preferred by the Insurance Company.

The Appeal is dismissed with cost.

[MS. R.M. DOSHIT, J.]

[C.K. BUCH, J.]

pirzada/-